IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Misc.No.79860-M of 2006

DATE OF DECISION: FEBRUARY 20, 2007

Baljit Singh @ Gaggu

...PETITIONER

VERSUS

State of Punjab

...RESPONDENT

CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL

Present: Mr.P.S.Ghuman, Advocate,
for the petitioner.
Mr.N.S.Gill, AAG, Punjab.

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Petitioner Baljit Singh @ Gaggu has filed this petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No.6 dated 3.1.2006 registered under Sections 302/506/120-B/34 IPC at Police Station Sadat Malout, District Mukatsar.

I have heard the counsel for the parties and gone through the contents of the FIR as well as the order dated 14.8.2006 passed by the Additional Sessions Judge-I, Muktsar, whereby bail has been declined to the petitioner.

The aforesaid FIR was registered on 3.1.2006 at 5.30 p.m. on the statement of one Dial Singh son of Inder Singh in which it was alleged that on 2.1.2006 at about 7.15 p.m., when he and deceased Gurmit Singh alias Mita reached near the fields of Manjit Singh, a resident of the village, they found that Subeg Singh alias Shera (co-accused), who was armed with Kulhari, Sukha Bengali (co-accused) and Baljit Singh @ Gaggu (petitioner), who were armed with Sotis, were standing there. When deceased Gurmit Singh alias Mita reached near them, then Subeg Singh alias Shera, gave Kulhari blow on his forehead, as a result of which he fell down. Thereafter, Subeg Singh alias Shera gave a Kulhari blow on his face. It is also alleged that when the deceased fell down, Sukha Bengali (co-accused) and Baljit

Singh @ Gaggu (petitioner) also gave Sotis blows to him. Thereafter, the accused ran away with their weapons and Gurmit Singh alias Mita died on the spot. As per the FIR, the complainant immediately did not report the matter to the police. Rather, he left the spot and went to Amritsar which is about 200 Kilometers away from the place of occurrence, to inform the brother of the deceased. The motive behind the occurrence was stated that the wife of deceased Gurmit Singh alias Mita, namely, Harraj Kaur, was having illicit relations with Subeg Singh alias Shera and the deceased used to forbid them. In the FIR, it has been stated that this fact was stated to the complainant by the deceased Gurmit Singh alias Mita.

Counsel for the petitioner contends that as far as the petitioner is concerned, he has been falsely implicated in this case after one day of the alleged occurrence. While referring to the post-mortem report of the deceased, learned counsel submitted that there are only two injuries on the person of the deceased and those injuries were caused by main accused Subeg Singh alias Shera. Except those two injuries, no other injury was found on the person of the deceased. Therefore, the statement of the complainant to the extent that when the deceased fell down after the injuries caused by the main accused, the petitioner also gave Soti blow to the deceased, is false. Counsel further contends that as far as the petitioner is concerned, there is no motive for committing the alleged offence. The main accused in the case is Subeg Singh alias Shera, who is already in custody. Counsel contends that in this case the petitioner is in custody since 25.2.2006 and till date no prosecution witness has been examined and the matter is pending before the trial court for consideration of the fact whether the other two co-accused are juvenile or not. Counsel contends that as far as the petitioner is concerned, false implication of the petitioner in this case cannot be ruled out as the FIR was registered after a delay of one day and the conduct of the complainant to first go to Amritsar from the spot to inform the brother of the deceased instead of immediately going to the Police Station for reporting the matter, particularly when the deceased died on the spot.

Counsel for the respondent-State could not controvert the factual position in this case, i.e., only two injuries were found on the person of the deceased during post-mortem examination, which have been

attributed to main accused Subeg Singh alias Shera; FIR was registered after a delay of one day; the causing of Soti blow to the deceased by the petitioner is not corroborated by medical evidence; and the motive has been alleged only against Subeg Singh alias Shera as well as the custody period and the fact that no prosecution witness has been examined till date, and the matter is pending before the trial court for ascertaining the fact whether other two co-accused are juvenile or not. It is also not the case of the counsel for the respondent-State that in case the petitioner is released on bail, he is likely to tamper with the prosecution evidence or cause any sort of interference in the fair trial.

Keeping in view the aforesaid facts, without expressing any opinion on the merits of the case, I deem it appropriate to grant regular bail to the petitioner, and he is accordingly ordered to be released on bail to the satisfaction of the trial Court.

February 20, 2007 (SATISH KUMAR MITTAL)
vkg JUDGE